

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	4:05CR3013
v.)	
)	
JOHN RAY WILSON,)	
)	MEMORANDUM AND ORDER
Defendant.)	
_____)	
)	

At the time scheduled for a hearing on the plaintiff's motion to determine defendant's capacity to stand trial, filing 21, the court was advised that the defendant is hospitalized and his condition is not presently known. The matter was discussed with counsel in chambers, who agreed to the provisions set out below.

IT THEREFORE HEREBY IS ORDERED:

1. Trial and all further proceedings in this case are continued, stayed, and suspended until further order of the court.

2. The United States Marshal shall report to the court and counsel on (1) the defendant's doctors' opinions regarding defendant's capacity--both physically and mentally--to participate in court proceedings and assist his lawyer in defending the charges in this case; and (2) whether the Marshals Service has suitable facilities available to it which are capable of meeting the defendant's medical needs, should that be necessary during the further progression of this case. The first such report shall be provided on or before September 9, 2005, and subsequent reports shall be provided every two weeks thereafter. Such reports shall not at this time be filed, but merely provided to the court and counsel by letter or other informal, written means. If as a result of such reports either plaintiff or defendant desires an evidentiary hearing to inquire further into the defendant's condition, request therefor shall be filed under seal and appropriately supported.

3. The time from this date until the defendant regains competency and physical capacity to stand trial and assist his lawyer in his defense, as found by the court, shall be excluded from any calculation of days under the Speedy Trial Act, 18 U.S.C. 3161(h)(4). Ruling on the possible exclusion of time before the filing of the government's motion, filing 21, is reserved for later inquiry if necessary.

DATED this 2nd day of September, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge